Changes to legislation: *The Children and Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991 is up to date with all changes known to be in force on or before 14 January 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1991 No. 2872 (N.I. 25)

The Children and Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991

- - - - - - *19th December 1991*

Introductory

Title and commencement

1.—(1) This Order may be cited as the Children and Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991.

(2) This Order shall come into operation on such day or days as the Head of the Department may by order appoint[F1].

F1 fully exercised by SR 1992/252; 1993/34

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order "the Department" means the Department of Health and Social Services.

Amendment of Articles 3 and 4 of the Health and Personal Social Services (Northern Ireland) Order 1978

3.—(1) The Health and Personal Social Services (Northern Ireland) Order 1978 shall be amended as follows.

(2) In Article 3 (prohibition on sale of tobacco, etc., to persons apparently under 16)—

(a) in paragraph (1) the word "apparently" shall be omitted;

(b) after paragraph (1) there shall be inserted—

"(1A) It shall be a defence for a person charged with an offence under paragraph (1) to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence." ; and

(c) in paragraph (3) for "£50" there shall be substituted " level 4 on the standard scale ".

(3) In Article 4 (control of automatic machines for sale of tobacco)—

(a) in paragraph (1) for "is being extensively used by persons apparently" there shall be substituted " has been used by any person "; and

(b) in paragraph (2) for the words from "to a fine" onwards there shall be substituted " to a fine not exceeding level 4 on the standard scale ".

Sale of unpackaged cigarettes

4.—(1) It shall be an offence for any person carrying on a retail business to sell cigarettes to any person other than in [F2]... their original package.

(2) Any person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) In this Article "original package" means the package in which the cigarettes were supplied for the purpose of retail sale by the manufacturer or importer; and "package" means any box, carton or other container.

F2 Words in art. 4(1) omitted (20.5.2016) by virtue of The Standardised Packaging of Tobacco Products Regulations 2015 (S.I. 2015/829), regs. 1(2), **19(2)** (with regs. 14(5), 20)

Sales from vending machines

[F3]**4A.**—(1) The Department may by regulations make provision prohibiting the sale of tobacco from an automatic machine.

(2) The regulations must make provision as to the persons who are liable in the case of any breach of a prohibition.

(3) Where a prohibition contained in the regulations is breached, any person liable in accordance with the regulations is guilty of an offence.

(4) A person guilty of an offence under this Article is liable on summary conviction to a fine not exceeding **[**[F4]level 5**]** on the standard scale.

(5) Sections 13, 14 and 15 of the Tobacco Advertising and Promotion Act 2002 (enforcement etc.) apply for the purposes of this Article and regulations made under it as they apply for the purposes of provisions of that Act.

(6) The power to make regulations under this Article includes power to make supplementary, incidental, consequential or transitional provision.

(7) Regulations may not be made under this Article unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

(8) In this Article "tobacco" has the same meaning as in Part 2 of the Health and Personal Social Services (Northern Ireland) Order 1978.

F3 Art. 4A inserted (12.11.2009 for specified purposes, 1.3.2012 in so far as not already in operation) by Health Act 2009 (c. 21), **ss. 23**, 40(1), (6)(b); S.R. 2012/68, art. 2

F4 Words in art. 4A(4) substituted (1.6.2017) by Health (Miscellaneous Provisions) Act (NorthernIreland) 2016 (c. 26), **ss. 4**, 20(3); S.R. 2017/91, art. 2(d) (with art. 3)

Display of warning statements in retail premises and on vending machines

5.—(1) A notice displaying the following statement—

"It is illegal to sell tobacco products to anyone under **[**[F5]the age of 18"**]**